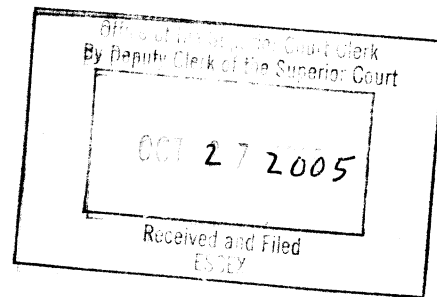


PETER C. HARVEY
ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Halsey Street - 5th Floor
P.O. Box 45029
Newark, New Jersey 07101
Attorney for Plaintiffs

By: Amye R. Steinberg
Deputy Attorney General
(973) 648-7819



SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
ESSEX COUNTY
DOCKET NO.: C-347-05

PETER C. HARVEY, Attorney General of the
State of New Jersey, and KIMBERLY S.
RICKETTS, Director of the New Jersey Division
of Consumer Affairs,

Plaintiffs,

v.

NORTH JERSEY HOME PROS, INC. d/b/a
NORTH JERSEY HOME PROS and JEFFERY
FORMICA, individually and as owner, officer,
director, shareholder, founder, manager, agent,
servant, employee and/or representative of
NORTH JERSEY HOME PROS, INC. d/b/a
NORTH JERSEY HOME PROS, JOHN AND
JANE DOES 1-10, individually and as owners,
officers, directors, shareholders, founders,
managers, agents, servants, employees and/or
representatives of NORTH JERSEY HOME
PROS, INC. d/b/a NORTH JERSEY HOME
PROS, and XYZ CORPORATIONS 1-10,

Defendants.

Civil Action

COMPLAINT

Plaintiffs Peter C. Harvey, Attorney General of the State of New Jersey, with offices located at 124 Halsey Street, Fifth Floor, Newark, New Jersey, and Kimberly S. Ricketts, Director of the New Jersey Division of Consumer Affairs, with offices located at 124 Halsey Street, Seventh Floor, Newark, New Jersey, by way of Complaint state:

JURISDICTION AND PARTIES

1. The Attorney General of the State of New Jersey (“Attorney General”) is charged with the responsibility of enforcing the New Jersey Consumer Fraud Act (“CFA”), N.J.S.A. 56:8-1 et seq., and all regulations promulgated thereunder, N.J.A.C. 13:45A-1.1 et seq. The Director of the New Jersey Division of Consumer Affairs (“Director”) is charged with the responsibility of administering on behalf of the Attorney General the CFA and the regulations promulgated thereunder.

2. By this action, the Attorney General and the Director (collectively referred to as “Plaintiffs”) seek injunctive and other relief for violations of the CFA and the regulations promulgated thereunder. Plaintiffs bring this action pursuant to their authority under the CFA, specifically N.J.S.A. 56:8- 8, 56:8-11, 56:8-13 and 56:8-19. Venue is proper in Essex County, pursuant to R. 4:3-2, because it is the county in which defendants have advertised and/or conducted business and in which they maintain an office to conduct business.

3. Defendant North Jersey Home Pros, Inc. d/b/a North Jersey Home Pros (“Jersey Home Pros”) is a corporation established in the State of New Jersey (the “State”) on December 26, 2001. Upon information and belief, at all relevant times, Jersey Home Pros maintained a principal place of business at 41 Glen Ridge Avenue, Montclair, New Jersey 07042. The registered agent in the State for Jersey Home Pros is Jeffrey Formica (“Formica”).

4. Upon information and belief, at all relevant times, defendant Formica was the owner of Jersey Home Pros. Upon information and belief, at all relevant times, Formica has maintained an address of 26 Gladding Road, Caldwell, New Jersey 07006 and/or 7 Bay Street, Glen Ridge, New Jersey 07028.

5. Upon information and belief, John and Jane Does 1 through 10 are fictitious individuals meant to represent owners, officers, directors, shareholders, founders, managers, agents, servants, employees and/or representatives of Jersey Home Pros who have been involved in the conduct that gives rise to this Complaint, but are heretofore unknown to the Plaintiffs. As these Defendants are identified, Plaintiffs shall amend the Complaint to include them.

6. Upon information and belief, XYZ Corporations 1 through 10 are fictitious corporations meant to represent any additional corporations who have been involved in the conduct that gives rise to this Complaint, but are heretofore unknown to Plaintiffs. As these defendants are identified, Plaintiffs shall amend the Complaint to include them.

7. Jersey Home Pros and Formica are collectively referred to as "Defendants."

GENERAL ALLEGATIONS

8. Upon information and belief, since at least April 2003, Defendants had been engaged in the business of performing home improvement work in the State including, but not limited to, interior and exterior painting and renovations, masonry work, installation of roofs, bathroom fixtures, plumbing, cabinets and flooring and electrical work.

9. Upon information and belief, Defendants have entered into home improvement contracts with consumers in the State to perform home improvement services including, but not

limited to interior and exterior painting and renovations, masonry work, installation of roofs, bathroom fixtures, plumbing, cabinets and flooring and electrical work.

COUNT I

VIOLATIONS OF THE CFA BY DEFENDANTS (UNCONSCIONABLE COMMERCIAL PRACTICES)

10. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 9 above as if more fully set forth herein.

11. The CFA, N.J.S.A. 56:8-2, prohibits:

The act, use or employment by any person of any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing [] concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise....

12. In the operation of their home improvement business, Defendants have engaged in the use of unconscionable commercial practices, false promises, misrepresentations and/or the knowing concealment, suppression or omission of material facts.

13. Defendants have engaged in unconscionable commercial practices including, but not limited to, the following:

- a. Performing electrical work in the State without being licensed to do so;
- b. Performing plumbing work in the State without being licensed to do so;
- c. Failing to commence the work specified in home improvement contracts;
- d. Failing to complete the work specified in home improvement contracts;
- e. Failing to provide consumers with timely written notice of a delay in the commencement or completion of home improvement work;
- f. Failing to return to consumers' homes to complete home improvement work;

- g. Accepting payment for home improvement work that Defendants never commenced;
 - h. Accepting payment for home improvement work that Defendants never completed;
 - i. Accepting payment for home improvement work that Defendants failed to properly perform;
 - j. Accepting insurance monies paid for repair work, then failing to perform the work;
 - k. Promising, then failing to provide a refund to a consumer who timely cancelled a home improvement contract;
 - l. Failing to provide consumers with refunds for home improvement work that Defendants never commenced;
 - m. Failing to provide consumers with refunds for home improvement work that Defendants never completed;
 - n. Failing to reimburse consumers for home improvement work performed by third parties to remedy work improperly performed by Defendants;
 - o. Failing to honor the warranty as stated in the home improvement contract;
 - p. Failing to honor a consumer's right to cancel the home improvement contract; and
 - q. Failing to respond to consumers' inquiries in a timely manner or at all.
14. Each unconscionable commercial practice by Defendants constitutes a separate

violation under the CFA, N.J.S.A. 56:8-2.

COUNT II

**VIOLATION OF THE CFA BY DEFENDANTS
(FALSE PROMISES, MISREPRESENTATIONS
AND KNOWING OMISSIONS OF MATERIAL FACT)**

15. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 14 above as if more fully set forth herein.

16. In the operation of their home improvement business, Defendants have made false promises and/or misrepresentations including, but not limited to, the following:

- a. Misrepresenting that Defendants are licensed to perform electrical work in the State; and
- b. Misrepresenting that Defendants are licensed to perform plumbing work in the State.

17. In the operation of their home improvement business, Defendants have engaged in knowing omissions of material fact including, but not limited to, the following:

- a. Failing to inform consumers that Respondents were not licensed electricians in the State;
- b. Failing to inform consumers that Respondents were not licensed plumbers in the State; and
- c. Failing to include in home improvement contracts the date or time period within which work is to commence.

18. Each false promise, misrepresentation and/or knowing omission of material fact by Defendants constitutes a separate violation under the CFA, N.J.S.A. 56:8-2.

COUNT III

VIOLATION OF THE HOME IMPROVEMENT PRACTICES REGULATIONS BY DEFENDANTS

19. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 18 above as if more fully set forth herein.

20. The Regulations Governing Home Improvement Practices, N.J.A.C. 13:45A-16.1 et seq. ("Home Improvement Regulations"), promulgated pursuant to the CFA, among other things, prohibit certain acts and practices of a seller in connection with the sale, advertisement or performance of home improvement contracts.

21. Defendants are "seller[s]" within the definition of N.J.A.C. 13:45A-16.1.

22. At all relevant times, Defendants entered into "home improvement contracts" within the definition of N.J.A.C. 13:45A-16.1.

23. The Home Improvement Regulations provide, in pertinent part:

- a. Without limiting any other practices which may be unlawful under the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., utilization of a seller of the following acts and practices involving the sale, attempted sale, advertisement or performance of home improvements shall be unlawful hereunder:

....

7. Performance:

....

- ii. Fail to begin or complete work on the date or within the time period specified in the home improvement contract, or as otherwise represented, unless the delay is for reason of labor stoppage; unavailability of supplies or materials, unavoidable casualties, or any other cause beyond seller's control. Any changes in the dates or time periods stated in a written contract shall be agreed to in writing; or

- iii. Fail to give timely written notice to the buyer of reasons beyond the seller's control for any delay in performance, and when the work will begin or be completed.

[N.J.A.C. 13:45A-16.2(a)(7)(ii), (iii).]

24. Additionally, the Home Improvement Regulations include a writing requirement for contracts priced in excess of \$200.00 and provide, in pertinent part:

- 12. Home improvement contract requirements - writing requirement: All home improvement contracts for a purchase price in excess of \$200.00, and all changes in the terms and conditions thereof shall be in writing. Home improvement contracts which are required by this subsection to be in writing, and all changes in the terms and conditions thereof, shall be signed by all parties thereto, and shall clearly and accurately set forth in legible form all terms and conditions of the contract, including, but not limited to, the following:

....

- iv. The dates or time period on or within the work is to begin and be completed by seller;

....

[N.J.A.C. 13:45A-16.2(a)(12)(iv).]

25. Defendants violated the Home Improvement Regulations by engaging in certain conduct including, but not limited to:

- a. Failing to complete the work by the date or within the time period represented to consumers;
- b. Failing to provide consumers with timely written notice of a delay in the commencement or completion of home improvement work;
- c. Failing to obtain consumers' written consent to any changes in the commencement and/or completion dates specified in the home improvement contract; and
- d. Failing to include in home improvement contracts the dates or time periods on or within which the work is to commence.

26. Defendants' conduct constitutes multiple violations of the Home Improvement Regulations, N.J.A.C. 13:45A-1.1 et seq., each of which constitutes a per se violation of the CFA, N.J.S.A. 56:8-1 et seq.

COUNT IV

VIOLATIONS OF THE CFA AND/OR THE HOME IMPROVEMENT REGULATIONS BY DEFENDANT FORMICA

27. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 26 above as if more fully set forth at length herein.

28. At all relevant times, Formica was owner, officer, director, shareholder, founder, manager, agent, servant, employee and/or representative of Jersey Home Pros and controlled and directed the activities of that entity.

29. Formica is personally liable for the violations of the CFA and/or the Home Improvement Regulations committed by Jersey Home Pros.

PRAYER FOR RELIEF

WHEREFORE, based upon the foregoing allegations, Plaintiffs respectfully request that the Court enter judgment against Defendants:

- (a) Finding that the acts and omissions of Defendants constitute multiple violations of the CFA, N.J.S.A. 56:8-1 et seq., and the Regulations promulgated thereunder, specifically the Home Improvement Regulations, N.J.A.C. 13:45A-16.1 et seq.;
- (b) Permanently enjoining Defendants and their owners, agents, employees and representatives and all other persons or entities directly under their control, from engaging in, continuing to engage in, or doing any acts or practices in violation of the CFA, N.J.S.A. 56:8-1 et seq., and the Home Improvement Regulations, N.J.A.C. 13:45A-16.1 et seq., including, but not limited to, the acts and practices alleged in this Complaint;

- (c) Directing the assessment of restitution amounts against Defendants, jointly and severally, to restore any affected person, whether or not named in this Complaint, any money or real or personal property acquired by means of any alleged practice herein to be unlawful, as authorized by the CFA, N.J.S.A. 56:8-8;
- (d) Assessing the maximum statutory civil penalties against Defendants, jointly and severally, for each and every violation of the CFA, in accordance with N.J.S.A. 56:8-13;
- (e) Directing the assessment of cost and fees, including attorneys' fees, against Defendants, jointly and severally, for the use of the State of New Jersey, as authorized by the CFA, N.J.S.A. 56:8-11 and N.J.S.A. 56:8-19; and
- (f) Granting such other relief as the interests of justice may require.

PETER C. HARVEY
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: Amye R. Steinberg
Amye R. Steinberg
Deputy Attorney General

Dated: October 27, 2005
Newark, New Jersey

RULE 4:5-1 CERTIFICATION

I certify, to the best of my information and belief, that the matter and controversy in this action is not subject to any other action pending in any other court of this State other than private contract, real property and/or personal injury actions that have been brought against the Defendants, but I have no direct information that any such actions involve consumer fraud allegations. I further certify that the matter in controversy in this action is not the subject of a pending arbitration proceeding in this State, nor is any other action or arbitration proceeding contemplated. I certify that there is no other party who should be joined in this action at this time.

PETER C. HARVEY
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: Amye R. Steinberg
Amye R. Steinberg
Deputy Attorney General

Dated: October 27, 2005
Newark, New Jersey

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, Amye R. Steinberg, Deputy Attorney General, is hereby designated as trial counsel on behalf of Plaintiffs in this matter.

PETER C. HARVEY
ATTORNEY GENERAL OF NEW JERSEY

By: Amye R. Steinberg
Amye R. Steinberg
Deputy Attorney General

Dated: October 27, 2005
Newark, New Jersey